

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the

complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25, 31-32 (1992); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds*, *Davis v. Scherer*, 468 U.S. 183 (1984).

### **The complaint**

Plaintiff seeks declaratory and monetary relief pursuant to 42 U.S.C. § 1983 against the Department of Social Services, Division of Family Services. Plaintiff's complaint concerns denial of medical services for hand and eye injuries when he was unemployed and had no health insurance.

### **Discussion**

Plaintiff's complaint fails to state a claim under § 1983. Plaintiff cannot bring suit against defendant Department of Social Services, Division of Family Services because it is not a "person" for purposes of § 1983. *See Harris v. Missouri Court of Appeals, Western Dist.*, 787 F.2d 427 (8th Cir. 1986); *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 63 (1989).

In accordance with the foregoing,

**IT IS HEREBY ORDERED** that plaintiff's motion for leave to proceed in forma pauperis [Doc. 1] be **GRANTED**. *See* 28 U.S.C. § 1915(a).

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to issue upon the complaint because the complaint is legally frivolous or fails to state a claim upon which relief may be granted or both. *See* 28 U.S.C. § 1915(e)(2)(B).

**IT IS FURTHER ORDERED** that plaintiff's motion for appointment of counsel [Doc. 4] be **DENIED** as moot.

An appropriate order shall accompany this order and memorandum.

Dated this 24th day of July, 2006.

  
**UNITED STATES DISTRICT JUDGE**